IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 15706 of 2007(T)

PETITIONER:

P.J.JOHNY, S/O.JOSEPH, AGED 45,
LOWER DIVISION CLERK (UNDER SUSPENSION),
KUMILY GRAMA PANCHAYATH, KUMILY,
IDUKKI.

BY ADV. SRI.C.S.MANILAL

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED
BY THE SECRETARY TO GOVERNMENT, LOCAL SELF
GOVERNMENT DEPARTMENT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PANCHAYATH,
DIRECTORATE, THIRUVANANTHAPURAM.

3. THE DEPUTY DIRECTOR OF PANCHAYATH,
IDUKKI.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR,J.

W.P (C) No.15706 of 2007

Dated this the 13th day of July, 2007

J U D G M E N T

The petitioner is a Lower Division Clerk working under the respondents. While he was serving in the Kumily Grama Panchayat he has been placed under suspension by Exhibit-P1 order dated 8.2.2005. The allegation against him was that he printed duplicate receipt books and collected tax from the residents of the Panchayat payable to it and misappropriated the same. By Exhibit-P2 the suspension has been extended until further orders.

2. The Police has registered a crime against the petitioner. Final report has been filed in it and the criminal case is pending trial. The petitioner is not so far, reinstated in service. Therefore, he filed Exhibit-P3 representation before the Deputy Director of Panchayats on 22.7.2006. Thereafter, this writ petition is filed seeking the following reliefs:

> " i) Issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to Exts. P1 and P2 and quash the same as illegal;

ii) Issue a writ of mandamus or any other appropriate writ, order or direction directing the 3rd respondent to reconsider and review the suspension order by passing order on Ext.P3 request made by the petitioner as expeditiously as possible at any rate within the shortest time frame to be fixed by this Hon'ble Court.

ii) Grant appropriate direction directing the 3rd respondent to forthwith release the arrears of substance allowance due to the petitioner."

3. The 3rd respondent has filed a statement stating that the petitioner is facing trial for the offences under Sections 409, 468 and 471 of Indian Penal Code. Only after the conclusion of the criminal trial, the question of reinstatement in service of the petitioner could be taken up, it is submitted.

4. Heard. Having regard to the nature of the allegations against the petitioner, I feel that unless he is cleared by the Criminal Court, it may not be appropriate to reinstate in service. Rule 10 of the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960 enables the authorities to keep an employee under suspension pending trial of the criminal case against him. So the action of the respondents in suspending and keeping him under continued suspension is within jurisdiction. This court is not justified in interfering with the same. Accordingly this writ

petition is dismissed. This will not affect the powers of the competent authority to review the suspension against the petitioner, if it thinks fit on a later date.

(K.BALAKRISHNAN NAIR,JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007